

\*\*E-filed 11/16/06\*\*

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6 Attorneys for Defendants The St. Paul  
Travelers Company, Inc. and St. Paul Mercury  
7 Insurance Company

## UNITED STATES DISTRICT COURT

## NORTHERN DISTRICT OF CALIFORNIA

## SAN JOSE DIVISION

11 SYSTEMS AMERICA, INC.,

Case No.: C-05-02499 JF

12 Plaintiff,

**STIPULATION AND [PROPOSED]  
ORDER FOR REVISED MOTION AND  
PRE-TRIAL DATES**

13 vs.

14 THE ST. PAUL TRAVELERS COMPANY,  
INC., and ST. PAUL MERCURY  
15 INSURANCE COMPANY,

16 Defendants.

17  
18  
19 Since the Case Management Conference on July 21, 2006, the parties have continued to  
20 discuss options explored at mediation to narrow issues and to efficiently address the disputes  
21 between them, while at the same time preserving their rights to present or defend against the  
22 claims asserted in this litigation should trial prove necessary. Toward that end, St. Paul will file  
23 by Monday, November 20, 2006 a Motion for Summary Adjudication Re: Application of  
24 Policy Limits. Plaintiff may file together with its opposition to Defendants' motion, a cross-  
25 motion for summary adjudication on the same issue.

26 The parties are informed that the first available hearing date for these motions will be  
27 Friday, January 12, 2007. The parties wish to maintain the currently scheduled trial date of  
28 April 16, 2007 but they respectfully request a continuance of the pre-trial deadlines pending

1 resolution of these motions. Specifically, subject to the Court's approval, the parties suggest the  
2 following schedule for the motions and all pretrial cut off dates:

3 Defendants' Motion to be filed on or before: Monday, November 20, 2006

4 Plaintiff's Opposition and any Cross-Motion on the same issue to be filed:

5 Tuesday, December 12, 2006

6 Reply in Support of Defendants' Motion and in Opposition to any Cross-Motion  
7 to be filed: Friday, December 22, 2006

8 Reply in Support of Cross-Motion (if any) to be filed: Friday, December 29,  
9 2006

10 Hearing date on Motion and Cross-Motion: Friday, January 12, 2007

11 Expert disclosure: January 16, 2007

12 Rebuttal expert disclosure: February 15, 2007

13 Non-expert discovery cut off: February 15, 2007

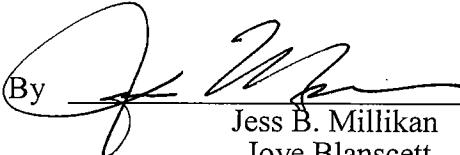
14 Last day to hear other dispositive motions: March 1, 2007

15 Expert discovery cut off: March 15, 2007

16 Trial date: April 16, 2007 (unchanged)

17 DATED: November 14, 2006

18 BULLIVANT HOUSER BAILEY PC

19 By   
20 Jess B. Millikan  
Joye Blanscett

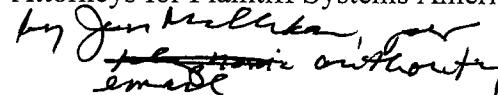
21 Attorneys for Defendants The St. Paul Travelers  
22 Company, Inc. and St. Paul Mercury Insurance  
23 Company

24 DATED: November 14, 2006

25 HELLER EHRLMAN LLP

26 By   
27 Angela Niemann (admitted pro hac vice)  
Está Brand

28 Attorneys for Plaintiff Systems America, Inc.

  
By Jennifer Wallace, Esq.  
for Plaintiff Systems America, Inc.  
under her authority

**[PROPOSED] ORDER**

Based on the parties' representations above, and good cause appearing therefore, it is hereby ordered that Defendants shall file their Motion for Summary Adjudication Re: Application of Policy Limits on or before Monday, November 20, 2006, and that the following schedule shall apply to this lawsuit. All previously set deadlines are hereby vacated.

Plaintiff's Opposition and any Cross-Motion on the same issue to be filed:

Reply in Support of Defendants' Motion and in Opposition to any Cross-Motion  
to be filed: Friday, December 22, 2006

Reply in Support of Cross-Motion (if any) to be filed: Friday, December 29, 2006

Hearing date on Motion and Cross-Motion: Friday, January 12, 2007

Expert disclosure: January 16, 2007

Rebuttal expert disclosure: February 15, 2007

Non-expert discovery cut off: February 15, 2007

Last day to hear other dispositive motions: March 1, 2007

Expert discovery cut off: March 15, 2007

Trial date: April 16, 2007 (unchanged)

Dated: 11/16/06

Hon. Jeremy Fogel  
United States District Court Judge